IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12258 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANPASAND BUILDERS PVT.LTD. THR' DIRECTOR - Petitioner
Versus
TORRENT POWER AEC LTD. THR' GENERAL MANAGER (LEGAL) & 1 - Respondents

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Appearance :

MR MAYUR RAJGURU for Petitioner.
NOTICE NOT RECD BACK for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 24/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. Though the record shows that both the

respondents are duly served with notice for final disposal of the petition, none of them has appeared through a lawyer or through its constituted agent, nor has filed affidavit-in-reply controverting the averments made in the petition.

2. By filing this petition under Article 226 of the Constitution, the petitioner i.e.Mr.Nefalbhai Shah, who is Director of Manpasand Builders Pvt.Ltd., which is a Company registered under the provisions of the Indian Companies Act, 1956, has prayed to issue a writ of mandamus or any other appropriate writ or order, directing the respondent No.1 i.e. Torrent Power AEC Ltd., to make available electricity supply to the low-rise residential flats/apartments constructed by the petitioner. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad Urban Development Authority to grant Building Use Permission on the basis of the application which may be submitted by the petitioner.

3. Land bearing Revenue Survey No.172+174/2+178/2, of which original Plot number was 85 and Final Plot number is 59/2 of T.P.Scheme No.21, stands in the names of Kalpeshbhai Kantibhai Patel, Ambalal Khimaji Shah and Sureshbhai Pukhrajbhai Shah in the revenue records. They applied to Ahmedabad Urban Development Authority to permit them to develop the land. The record shows that development permission was granted by Ahmedabad Urban Development Authority on December 19, 2005. The petitioner-Company entered into an agreement for development of the land by constructing residential bungalows vide agreement dated January 20, 2006. Pursuant to the said agreement, the petitioner has constructed 60 residential flats/apartments. After construction of residential flats/apartments, it was the duty of the petitioner to obtain Building Use Permission from the competent authority and thereafter to apply to the respondent No.1 for supply of

electricity connection. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 to supply electricity connection. The said request has been turned down by the respondent No.1 on the ground that the petitioner has not obtained Building Use Permission. By a communication, which forms part of the record, the General Manager, Naranpura Zone i.e. Respondent No.1 has informed the petitioner that electricity supply would be made available only if Building Use Permission or conditional order of the High Court is produced. Under the circumstances, the petitioner has filed the instant petition and claimed relief to which reference is made earlier.

4. The petition was placed for admission hearing before this Bench on June 28, 2006 and after hearing the learned counsel for the petitioner, notice for final disposal of the petition was issued making it returnable on July 20, 2006. As observed earlier, both the respondents are duly

served, but, none of them has appeared before the Court, nor contested the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued:

(1) The petitioner will approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to 60 residential flats/apartments constructed by it with a proper application/form/format and

by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to 60 residential flats/apartments constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to 60 residential flats/apartments constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to 60 residential flats/apartments constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to 60 residential flats/apartments constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to 60 residential flats/apartments constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to 60 residential flats/apartments constructed by it. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(patel)